

# DECLARATION OF BENEFICIAL USE AMOUNTS FORM

## ONLINE INSTRUCTIONS

### STATE OF UTAH

### DIVISION OF WATER RIGHTS

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#### **1. BACKGROUND EXPLANATIONS.**

A Water Right gives the owner(s) the right to divert water from a natural source to serve a particular set of beneficial uses. A combination of one or more water rights, which serves a unique set of beneficial uses, constitutes a water use group. A Declaration of Beneficial Use Amounts declares the beneficial use amount on one or more of the water rights in a water use group. A completed Declaration of Beneficial Use Amounts form is used to update the records of the State Engineer consistent with the beneficial use amounts declared.

A Declaration of Beneficial Use Amounts MAY NOT BE USED TO UPDATE OWNERSHIP RECORDS of the State Engineer; ownership information is updated using a Report of Water Right Conveyance (ROC). Owner names and signatures on the Declaration of Beneficial Use Amounts must match those in the records of the State Engineer or the declaration form will not be processed and records updated.

The situations when a Declaration of Beneficial Use Amounts is required are described in each of the following situations:

#### **1. Change Applications: A declaration shall be required if: ♣**

- ◆ There is more than one water right use group; AND
- ◆ The beneficial use amounts have not been previously quantified; AND
- ◆ The Change application:
  - ⇒ requires a declaration because of the nature of the change, OR
  - ⇒ is on a fewer than all the water rights in the water use group; AND
  - ⇒ seeks to remove a water right from the water use group.

#### **2. Proof Of Beneficial Use: A declaration may be required if:**

- ◆ There is more than one water right use group; AND
- ◆ The beneficial use amounts have not been previously quantified; AND
- ◆ The water right holder submitting proof:
  - ⇒ submits proof on a fewer than all the water rights in the water use group; OR
  - ⇒ does not hold all the water rights in the water use group.

#### **3. Segregation Application: A declaration shall be required if:**

- ◆ There is more than one water right use group; AND
- ◆ The beneficial use amounts have not been previously quantified.

**4. Ownership Updates:** A declaration shall be required if:

- ◆ There is more than one water right use group; AND
- ◆ The beneficial use amounts have not been previously quantified, AND
- ◆ The deed specifies the amount of beneficial use being conveyed.

The Declaration of Beneficial Use Amounts addresses a single water use group. However, a water right may be a member of multiple groups. In that case, several Declaration of Beneficial Use Amount forms may be required to completely quantify a particular water right's sole supply.

Information already in the State Engineer's records will be automatically included on the Declaration of Beneficial Use Amounts Form for your convenience. If you believe that this information is incorrect or for other questions regarding this form, please contact the Division of Water Rights at 801-538-7240. Any changes made to the information included on the form must be consistent with the records of the State Engineer.

By signing the declaration, the applicant acknowledges that the beneficial use amounts declared therein is not a general adjudication of the water rights in the water use group under Section 73-4 *et seq.*

**2. TO PRODUCE THE DECLARATION OF BENEFICIAL USE AMOUNTS:**

- ◆ First, if one is not already shown, type a water right number in the box provided.
- ◆ Next, to retrieve all group numbers for that right, click the "Get Group Numbers" button.
- ◆ Then, click on the group number of the water use group under consideration,
- ◆ And finally, click on the "Generate Declaration" button.
- ◆ More water right information can be found by clicking the "Water Right Data" button.

To view a summary of this water right, and its relationship to other rights, click on the "Declaration Summary Table" button. This table shows the Beneficial Use Amounts that have been previously declared.

**3. TO COMPLETE THE DECLARATION OF BENEFICIAL USE AMOUNTS:**

- ◆ A Declaration of Beneficial Use may declare the beneficial use amounts of one or more of the water rights in a water use group. However, regardless of whether it addresses all or some of the water rights, each rights, each water right owner listed in the water use group must sign the Declaration of Beneficial form.
- ◆ Indicate on the first page the beneficial use amounts for each water right being declared.
- ◆ Information already in the State Engineer's records will automatically be included on the Declaration of Beneficial Use Amounts form for your convenience. If you believe the this information is incorrect or for other questions regarding this form, please contact the Division of Water Rights at 801-538-7240. Any changes made to the information in cluded on teh form must be consistent with the State Engineer's records.

- ◆ The beneficial use amounts quantified on a Declaration of Beneficial Use Amounts are in the following units:
  - ⇒ Stockwatering is reported in Equivalent Livestock Units (ELU). See below for a description of ELUs and how to calculate them.
  - ⇒ Domestic use is defined in terms of Equivalent Domestic Units (EDU). An EDU is defined as one family.
  - ⇒ Irrigation is defined in acres.
  - ⇒ Beneficial Use Amount values for all other uses are generally defined in acre-feet per year.

◆ DESCRIPTION OF ELUs and HOW TO CALCULATE THEM.

An ELU is a standard unit used by the Division of Water Rights to describe the number of standard sized livestock that the water right allows to be watered for an entire year at the Point of Diversion (POD) described in the water right. There are two factors that are important in calculating the number of ELUs for a water right:

1) the type of livestock being watered, and 2) the length of time the livestock are watered at the POD.

The following chart shows the number of animals per equivalent livestock units for each type of livestock:

ANIMAL	NUMBER OF ANIMALS PER ELU
Cow/Horse	1.00
Sheep/Goat/Swine/Moose/Elk	5.00
Ostrich/Emu	7.78
Llama	12.73
Deer/Antelope/Bighorn Sheep/Mt. Goat	20.00
Chicken/Turkey/Chukar/Sagehen/Pheasant	33.33
Mink or Fox (caged)	560.00

EXAMPLE 1:

If there are 50 cows that are watered at a POD from May 1 thru October 31, the number of ELUs would be calculated as follows:

- 1) Number of Days: May 1 thru Oct 31 = 184 days;
- 2) Number of ELUs: 50 cows x (1 ELU/1 cow) x (184/365) = 25.21 ELUs

EXAMPLE 2:

If there are 50 sheep that are watered at a POD from June 1 thru September 30, the number of ELUs would be calculated as follows:

- 1) Number of Days: Jun 1 thru Sep 30 = 122 days;
- 2) Number of ELUs: 50 sheep x (1 ELU/5 sheep) x (122/365) = 3.34 ELUs

- ◆ Have each owner in the water right group sign the declaration and initial on the first page. Only the water right owners shown on the records of the State Engineer can sign the declaration. If one or more of the water users is not listed as a water right owner, a ROC form, which includes instructions for updating ownership information on the State Engineer's water right records, must be completed. Once the ROC process is completed and they are listed as an owner, they can and should sign the declaration form.
- ◆ Attach to the declaration all explanations generated or affidavits and documentation gathered that support the beneficial use amounts declared.

- ◆ If the Declaration of Beneficial Use Amounts is required in order to pursue another administrative action (such as a change application, etc.) and if the applicant has exhausted all reasonable efforts without successfully completing a Declaration of Beneficial Use Amounts, the applicant may request the State Engineer to apportion the beneficial uses among the water rights in the water use group by completing an APPLICATION FOR APPORTIONMENT of Beneficial Use Amounts.

#### **4. SUGGESTIONS FOR DEMONSTRATING REASONABLE EFFORT:**

These are efforts a water user might employ in attempting to complete a Declaration of Beneficial Use Amounts. A reasonable effort must be made prior to requesting assistance from the State Engineer through an Apportionment Application.

**Seek qualified professional assistance for help in resolving any of the issues preventing the completion of a Declaration.**

Efforts to **identify and locate** the other water right owners in the water use group or their successors in interest might include efforts to:

- ◆ Research the State Engineer records for the other supplemental water rights in the water use group, including the hard copy files and any hydrographic survey maps.
- ◆ Research the appropriate county recorders office(s) to identify new owner(s) of property and contact them.
- ◆ Research state or federal agency records to identify new grazing allotment owner(s) and contact them.
- ◆ Contact neighboring water users and property owners.
- ◆ Research historical records (including census records, obituaries, birth records, etc.).
- ◆ Contact locate water use groups/authorities.
- ◆ Do an Internet search of the water right owner names in every reasonable area of the country.
- ◆ Contact every name identified in the Internet search by telephone.
- ◆ Maintain a log of all efforts to identify the water right owners or their successors in interest.

Efforts to **contact** the other water right owners in the water use group or their successors in interest might include efforts to:

- ◆ Contact every name identified as a water right owner or successor in interest in the water right group by telephone or in person.
- ◆ Keep a log of phone call attempts showing a least two weeks of effort at different times of the day.
- ◆ Send a certified letter, response requested, to every name identified as a water right owner or successor in interest in the water right group and then follow up 30 days later with a regular mail letter.
- ◆ Keep any returned envelopes sent to a reasonable address showing there was no forwarding address.

Efforts to **reach agreement** with the other water right owners and complete a Declaration might include efforts to:

- ◆ Meet or communicate with each of the other water user(s) to determine if there is a possibility of reaching an agreement.
- ◆ Determine whether the other water users are willing but unable to figure out how to divide the beneficial uses among the water rights in the water use group.